

**MINUTES
BOARD OF ADJUSTMENT
PUBLIC HEARING
NOVEMBER 9, 2006**

The Lake County Board of Adjustment met Thursday, November 9, 2006 in the Commission Chambers on the second floor of the Round Administration Building in Tavares, Florida to consider requests for variances and any other petitions that may be submitted in accordance with Chapter XIV of the Lake County Land Development Regulations.

Board Members Present:

Howard (Bob) Fox, Jr.
Henry Wolsmann, Vice Chairman
Ruth Gray
Mary Link Bennett
Donald Schreiner, Chairman

Board Members Not Present:

Darren Eslinger
Carl Ludecke

Staff Present:

Terrie Diesbourg, Director, Customer Services Division
Anita Greiner, Chief Planner, Customer Services Division
Anna Ely, Public Hearing Coordinator, Customer Services Division
Sherie Ross, Public Hearing Coordinator, Planning and Development Services Division
Kimberly Williams, Assistant County Attorney

Chairman Schreiner called the meeting to order at 1:00 p.m. He noted for the record that there was a quorum present. He confirmed Proof of Publication for each case as shown on the monitor and that the meeting had been noticed pursuant to the Sunshine Statute.

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Minutes

MOTION by Mary Link Bennett, SECONDED by Howard (Bob) Fox, Jr. to approve the October 12, 2006 Board of Adjustment Public Hearing minutes, as submitted.

FOR: Fox, Jr., Wolsmann, Gray, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

Chairman Schreiner stated that all letters, petitions, photographs, and other materials presented at this meeting by applicants and those in support or opposition must be submitted to staff prior to proceeding to the next case. He added that if a variance is approved, the owner/applicant should give staff at least 24 hours before proceeding to the zoning counter.

Changes to the Agenda

Regarding BOA#131-06-3, C. Roger Freeman, which is No. 2 on the regular agenda, Anita Greiner, Chief Planner, stated that staff had received a letter from the attorney representing the case. She had just taken on the case and will be out of the office on the day of the December Board of Adjustment public hearing. She requested a continuance until January 11, 2007.

Ms. Greiner stated that a letter of opposition has been received for BOA#132-06-1, No. 3 on the agenda. Therefore, it will be removed from the consent agenda and placed on the regular agenda.

CASE NO.: BOA#131-06-3

AGENDA NO.: 2

OWNER/APPLICANT: C. Roger Freeman

MOTION by Mary Link Bennett, SECONDED by Ruth Gray to continue BOA#131-06-3 until the January 11, 2007 Board of Adjustment Public Hearing.

There was no one in the audience concerning this case except the owner/applicant.

FOR: Fox, Jr., Wolsmann, Gray, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

Discussion of Consent Agenda

Chairman Schreiner explained the procedure for hearing the cases on the consent agenda.

There was no one on the Board nor anyone in the audience who had an objection to the following cases remaining on the consent agenda: BOA#133-06-4 and BOA#134-06-3.

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CASE NO.: BOA#133-06-4 **AGENDA NO.:** 4
OWNER: Best Buy Mobile Homes, Inc.
APPLICANT: Morgan Jimenez

CASE NO.: BOA#134-06-3 **AGENDA NO.:** 5
OWNERS/APPLICANTS: Robert A. Shell, Jr. and Lynn A. Shell

MOTION by Mary Link Bennett, **SECONDED** by Ruth Gray to take the following actions on the above consent agenda:

BOA#133-06-4	Approval
BOA#134-06-3	Approval

FOR: Fox, Jr., Wolsmann, Gray, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.:

BOA#130-06-2

AGENDA NO.:

1

OWNERS/APPLICANTS:

**Arnett W. and Susan A. Bennett &
James R. and Bertha R. Coates, Jr.**

Anita Greiner, Chief Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report. She submitted a map of boundary survey as County Exhibit A, pointing out how the lots would be accessed. She also submitted a wetlands map as County Exhibit B, and a flood map as County Exhibit C. Based on County Exhibit B, Ms. Greiner said the easement to be created would go through the wetland area. In addition, one and possibly two of the lots would be wholly within the flood zone. The owners/applicants would need to check with Environment Health to ensure the soils would be suitable for private wells and septic tanks. She noted that the property is located within the Green Swamp Area of Critical State Concern. She added that the proposed lots clearly meet the definition of a subdivision, and staff would like to see this parcel go through the subdivision process to create the six parcels especially since there is a considerable amount of wetland and flood areas on the parcel.

When Marry Link Bennett said it appears that at least half of the proposed easement would go through the wetlands and almost two whole parcels are in the flood zones. Ms. Greiner said the survey did not show any of the flood zones or the wetlands. A more defined picture of the wetlands will be available when a surveyor goes out to the property and delineates the wetlands. Ross Pluta, an engineer from the Department of Public Works, also recommended that this property go through the subdivision process to ensure all requirements are met for wetland areas and for paving the access road.

Henry Wolsmann said he had visited the site and agreed that there is a lot of low ground. West of the site is swampland. Mary Link Bennett commented that the access road is named Swamp Drive.

Susan Bennett said that if the lots need to be reconfigured during the subdivision process, they were perfectly willing to do that. They bought this property so two families can live near each other (parents, children, grandchildren). They are willing to work with the County and make necessary compromises. Ms. Greiner explained that staff is recommending denial of the variance to allow this division of lots through the minor lot split process; staff would like it done through the subdivision process.

In response to Mary Link Bennett, Susan Bennett said they have not checked into the insurability of the property yet.

Ruth Gray felt the applicants should get their plans in order before beginning any process to divide the property.

MOTION by Ruth Gray, SECONDED by Howard (Bob) Fox, Jr. to deny the variance request in BOA#130-06-2.

FOR:**Fox, Jr., Wolsmann, Gray, Bennett, Schreiner****AGAINST:****None****NOT PRESENT:****Eslinger, Ludecke****MOTION CARRIED: 5-0**

CASE NO.: BOA#132-06-1

AGENDA NO.: 3

OWNER: Homes in Partnership, Inc.
APPLICANT: Bonita S. McCoy

Anita Greiner, Chief Planner, presented the case and staff recommendation of approval with conditions. She showed the aerial from the staff report on the monitor. She reiterated that this case had been taken off the consent agenda because a letter of opposition had been received. She noted that this is an odd-shaped lot with some wetlands on it so there is a minimal amount of land on which to build the house. The owner has proposed to move the house as close as possible to the front of the property line at the cul-de-sac area and six feet from the side property line; the setback requirement is five feet. This would result in the proposed house being 26 feet from the jurisdictional wetland line (JWL) at the closest point.

At the request of Ruth Gray, Ms. Greiner submitted the letter of opposition as County Exhibit A and read it into the record. Ms. Gray was informed by Ms. Greiner that the writer of the letter lives on Dolores Court. In response to Ms. Gray, Ms. Greiner said the letter writer gave no reason for her objection to this variance request.

Bonita McCoy was present to represent the case. She said Homes in Partnership is always very conscientious about making sure that they do what is good for the community. They will meet all other requirements when building the house.

Valerie Foerst said that she recently purchased a home on Dolores Court after moving from Seminole County. She said most of the neighbors are more concerned about the type of house to be built and whether it would be low-income housing rather than the environmental issue. Although she has only lived on Dolores Court for three months, the residents of Dolores Court have told her that "the lake comes into the backyard during a very wet rainy season." When Ms. Foerst asked if the owner would have the right to add fill, if necessary, Ms. Greiner said the owner would be allowed to add fill in the wetlands without coming before this Board; however, they would have to do compensating storage if they put in a certain amount of fill. Ms. Foerst said she was concerned about setting a precedent for this kind of variance, which could result in losing much protected area. She asked this Board to be cautious in granting these variances without careful consideration.

Ms. Greiner said they will not be building in the wetlands area. They want to be able to build within the 50-foot setback away from the wetland area. When Ms. Foerst asked the purpose of that setback, Ms. Greiner said it is to allow room for percolation of the first half-inch of storm water runoff so it does not get to the wetlands. That is why staff requests calculations for a swale. That provides even better protection than the 50-foot setback. Ms. Foerst was informed by Ms. Greiner that an engineer was on site and submitted calculations.

When Ms. Foerst asked about the type of structure to be built, Chairman Schreiner said that is not a concern of this Board.

At the request of Ms. Gray, Ms. Foerst pointed out on the aerial the location of her home on Dolores Court.

MOTION by Mary Link Bennett, SECONDED by Ruth Gray to approve the variance request in BOA#132-06-1 with the following conditions:

The storm water retention area must be constructed as indicated on the submitted plans and must be inspected by the Lake County Customer Services Division prior to a final inspection of the single-family dwelling unit by the Lake County Building Division.

The owner and subsequent owner(s) shall be required to maintain the storm water plan as approved.

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CASE NO.: BOA#132-06-1

AGENDA NO.: 3

OWNER: Homes in Partnership, Inc.
APPLICANT: Bonita S. McCoy

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FOR: Fox, Jr., Wolsmann, Gray, Bennett, Schreiner,

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

Adjournment

There being no further business, the meeting was adjourned at 1:30 p.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Donald Schreiner
Chairman